as the local switch." We also agree that the term "unbundled" suggests that there must be a separate charge for each purchased network element. NOPR at para. 86.

Parties are asked to identify each network element for which they believe access on an unbundled basis is technically feasible at this time. Since we are currently examining this identical issues in our state proceeding, we are unable to offer comment at this time.

We agree with the Commission's interpretation that subsection (c)(3) imposes an affirmative obligation on incumbent LECs to provide unbundled elements, and that LECs should have the burden of proving that it is technically infeasible to provide access to a particular network element.

The Commission also inquires whether it should establish minimum requirements governing the "terms" and "conditions" that would apply to the provision of all network elements. NOPR at para. 89. For example, the Commission inquires whether it should require incumbent LECs to provide network elements using the appropriate installation, service and maintenance intervals that apply to LEC customers and services. PaPUC takes no position on this issue, however, we urge that the Commission's plan accommodate additional or possibly different standards at the state level

(3) **Specific Unbundling Proposals (paras. 92-116).**

The Commission proposes specific unbundling proposals for four categories of elements: loops, switches, transport facilities, and signaling and databases. NOPR at para. 93. The Commission recognizes the different unbundling requirements of states, including New York, Hawaii and Illinois. While the PaPUC cannot take a definitive position on these issues because of our pending state investigation, we believe that § 251(d)(3) requires the Commission to

recognize that while states policies may vary, as long as they are consistent with the Act, they are lawful.

At para. 109, in its discussion regarding the unbundling of incumbent LEC signaling systems and databases, the FCC points to differences among the requirements of Colorado, Hawaii and Louisiana. Once again we believe that such variation is consistent with the goals of the 1996 Act.

V. Provisions of § 252

d. Pricing of Interconnection, Collocation, and Unbundled Network Elements. (paras. 117-158).

(1) Commission's Authority to Set Pricing Principles

We strongly disagree with the Commission's tentative conclusion that the very general statutory language contained in subpart 251(d)(2)(D) of the Act gives it authority to adopt a specific costing and pricing methodology for application on a nationwide basis. We just as strongly disagree with the Commission's tentative conclusion that it has statutory authority to define what are "wholesale rates" for purposes of resale, and what is meant by "reciprocal compensation arrangements" for transport and termination of telecommunications. The authority to determine both the costing methodologies and the ultimate prices for interconnection was clearly given to states under § 252 of the Act.

The FCC relies upon §§ 251(c)(2) and (c)(3) and (c)(6) which require that incumbent LECs' "rates, terms and conditions" for interconnection, unbundled network elements, and collocation be "just, reasonable and nondiscriminatory." The FCC also relies upon the language contained in Section 251(b)(5) which requires that all LECs "establish reciprocal compensation

arrangements for the transport and termination of telecommunications." NOPR, para. 117. The FCC tentatively concludes that this language establishes its authority under section 251(d) to adopt a uniform costing and pricing methodologies for interconnection, unbundled network elements and collocation on a nationwide basis. NOPR at para. 117.

The Commission's interpretation of the statute is not legally supportable. The Commission cannot rely upon the very general language contained in § 251 which defines the interconnection obligations of LECs and incumbent LECs to confer the specific authority delegated to states under § 252(d) to cost and price unbundled network elements, and transport and termination functions. Such an interpretation would render the very detailed and explicit language of § 252 superfluous. The reach of the Commission's strained interpretation is obvious. The Commission's authority can be derived only indirectly from the direct but very general obligations imposed upon local exchange carriers under the Act. It makes no sense to require both the states and the FCC to adopt and implement costing and pricing methodologies under the Act. Interpreted in this fashion, the discretion of states to utilize different methodologies which meet the § 252(d) standards would be completely eliminated. Further, the setting of uniform national costing and pricing methodologies would undercut the states' authority to establish affordable rates for local exchange service and would inappropriately intrude upon intrastate rates in contravention of § 152(b). In addition, national standards could result in the nullification of many local rate freezes negotiated as a result of lengthy complex proceedings before state regulatory agencies.

In addition to relying upon the language of § 251, the FCC in para. 119 attempts to identifies a number of factors which it argues weigh in favor of national costing and pricing

methodologies. The FCC inquires if the lack of consistent rates, even in contiguous geographic areas, create a barrier to entry or to deployment of facilities throughout a multistate market. We believe inquiries of this nature are irrelevant. No matter how many conceivable arguments there may be in favor of national pricing and costing mandates, there is no express authority in the Act which supports the adoption of uniform national costing and pricing methodologies. The FCC cannot overcome the express wording of the statute which gives pricing and costing authority directly to the states. The FCC cannot "by its own mandate" accomplish what the statute does not specifically provide

Consequently, if the FCC proceeds to adopt nationwide standards which attempt to establish a specific pricing and costing methodology, it should do so in the form of nonbinding guidelines which states can voluntarily elect to follow at their option. Additionally, such standards may apply if the FCC must act for a state under § 252(e). Subject to its potentially cloaking itself in the role of the state, the FCC otherwise would have no authority to establish interconnection costing and pricing methodologies under the Act. Beyond these two very limited exceptions, however, the FCC has no authority to dictate the costing and pricing methodologies that states are given discretion to implement under § 252(d) of the Act.

We also disagree with the Commission's discussion in para. 120 concerning the separations process and the continued application of Part 64. Application of § 152(b) still warrants application of the separations process and consideration of separated costs. We also believe that since this issue would involve drastic changes to the current separations process, before any conclusions are derived in this regard, the matter should first be referred to the 80-286 Joint Board for review and recommendation.

(2) Statutory Language (paras. 121-122)

The FCC seeks comment on the requirements of § 252(d)(1) which define the parameters for state costing and pricing determinations. We reiterate our position that the FCC does not have authority to dictate individual state costing and pricing methodologies under § 252(d). The responsibility to cost and price interconnection and network elements, transport and termination of traffic and wholesale resale rates was expressly given to the states under § 252(d) of the Act. The statute gives states latitude in this area as long as the specific costing and pricing methodologies adopted by the state are "based on ...cost" and are "nondiscriminatory."

We do not believe that there should be any distinction in the states' development of specific costing and pricing methodologies for "interconnection" and "unbundled network elements." The same pricing standard applies to them under Section 252(d)(1) of the Act. Thus, no distinction is called for under the Act. We also believe that collocation is logically a subset of interconnection services, pursuant to § 252(d)(1) and § 251(c)(2) for pricing purposes.

(3) Rate Levels (paras. 123-125)

The Commission has no authority to establish rates for interconnection or network elements except if a state fails to carry out its responsibilities in this regard or a state elects to use FCC established pricing standards rather than use its own. We agree that the language of § 252(d)(1) would preclude states from setting rates using traditional cost-of-service regulation, with its detailed examination of historical carrier costs and rate bases.

(a) Pricing Methodology (paras. 126-133)

The FCC seeks comment on various costing methodologies and how they should be calculated. See, NOPR at para. 126. This whole portion of the NOPR is reflective of the

highly detailed, inappropriately prescriptive approach pursued by the NOPR that is not supported by the Act. We are currently examining this issue in the context of several pending state proceedings. For purposes of our state universal service proceeding, we tentatively favored the use of a forward-looking, incremental cost model. We rejected the use of embedded or historical costs. Nonetheless, we also recognized in our August, 1995 Order in our Universal Service Investigation that "costs" should incorporate some reasonable allocation of joint and common costs. We also recognized that the loop itself was a joint and common cost and should also be subject to allocation.[11] We found in the context of our Universal Service Investigation that:

> We agree with Bell, GTE and the PTA that a portion of all joint shared and common costs, including overhead costs, should be reasonably assigned to basic universal service. Such assignment is appropriate regardless of whether one considers the assignment to be an add-on to the TS-LRIC of basic service or an incremental cost of the group of basic universal services. Without such allocation, cost studies will not reflect a LEC's total cost in providing basic universal.
>
> We agree with the PTA and the OCA that local loop costs are joint or shared costs since the local loop is jointly utilized to provide a wide array of telecommunications services, among which are basic universal services. Our view is unaffected by whether one views basic universal service as a single service or a group of services. Regardless, we believe an appropriate portion of local loop costs should be assigned to basic universal service, consistent with the treatment of other joint, shared or common costs.[12]

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[11]The FCC also appears to favor such allocation, at least if one considers its proposal in this regard in In the Matter of Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286 (1995).

[12]In Re: Formal Investigation to Examine and Establish Updated Universal Service Principles and Policies for Telecommunications Services in the Commonwealth Interlocutory Order, Initiation of Oral Hearings Phase, I 940035, p. 12 (September 5, 1995).

As already indicated, the above findings were within the context of our Universal Service Investigation only, and we are currently examining this issue for purpose of the development of interconnection rates.

In response to the Commission's inquiry in para. 131 regarding the arbitration process and the administrative burdens associated with the use of various methodologies, speaking on behalf of Pennsylvania, we would be most comfortable using our own state derived methodology rather than a hastily developed national methodology which may vary considerably from our own findings in our various state investigations.

The industry appears to be moving in the direction deaveraged costs. We would also note that the 1996 Act prohibits "geographic deaveraging of toll rates" only.

(b) Proxy-Based Outer Bounds for Reasonable Rates (paras. 134-143)

The FCC seeks commment on the benefits of adopting a national policy of outer boundaries for reasonable rates instead of specifying a particular pricing methodology. Para. 134. The PaPUC does not support the use of national rate ceilings or floors. We believe that this methodology would be inconsistent with the requirements of the 1996 Act which require that the rates for interconnection and unbundled elements be based upon cost.

(c) Other Issues (paras. 144-148)

The FCC seeks comment on the extent to which embedded or historical costs should be relevant, if at all, to the determination of cost-based rates under § 252(d)(1). As already indicated, in the context of our Universal Service Investigation in Pennsylvania, we rejected the embedded or historical costing methodology to calculate costs on a forward looking basis. We agree with the Commission's conclusion in para. 146 that it appears that Congress' intent was

that the provision of interconnection and unbundled elements pursuant to sections 251 and 252 may not legally displace its interstate access charge regime.

(4) Rate Structure (paras. 149-154)

We don't believe that the Commission has any authority to establish national pricing standards under the Act. If the Commission adopts any requirements they should be in the form of nonbinding guidelines for states to follow if the voluntarily elect to do so.

A detailed Commission mandated national pricing structures would violate the authority of states to establish interconnection and unbundled rate elements under § 252(d). We also believe that under § 251(d)(3), the Commission cannot preclude enforcement of intrastate pricing policies that are consistent with the Act's objectives.

(5) Discrimination (paras. 155-156)

We do not believe that the use of the term "nondiscriminatory" in the 1996 Act was meant to prohibit all price discrimination including measures such as density zone pricing or volume and term discounts which are based upon legitimate variances in costs.

We believe that had Congress intended to prohibit any discrimination in rates, it would have included interconnection elements within the general prohibition against geographically deaveraged rates that is applicable to toll rates under § 254(g) of the Act.

(6) Relationship to Existing State Regulation and Agreements (para. 157)

We believe, consistent with the Commission's interpretation, that Section 251(d)(3) of the 1996 Act effectively bars the Commission, when prescribing regulations to implement section 251, from precluding enforcement of any state interconnection or access regulations that are with the Act's objectives. We further believe that a range of state policies may be consistent with

the Act. For this reason, a "one-size-fits-all" approach wherein the FCC mandates rigid and inflexible interconnection and access regulations applicable on a nationwide basis would be inconsistent with § 251(d)(3) wherein it is specifically required to recognize a range of state policies.

§ 251(d)(3) reflects a recognition on Congress' part that it would be inefficient and counter-productive for the FCC to set aside the tremendous efforts of states in this area, especially when the state's regulations meet all of the Act's objectives. It also reflects a recognition on Congress' part that there may be a range of state interconnection and access policies that would meet the Act's objectives.

Finally, we do not believe that it was Congress' intent that the FCC make independent determinations and preempt state policies which it believes are inconsistent with the Act's provisions. The only preemption authority given the FCC relative to state interconnection policies is contained in § 252(e)(5) of the statute which permits the FCC to step in and act for a state when a state fails to act as required under the 1996 Act.

The FCC's repeated inquiries throughout the NOPR on the consistency of state policies is inappropriate. The Commission does not have authority under the Act to preempt state policies using ad hoc determinations made as a result of the anecdotal statements of a few parties in this proceeding. Determinations as to the consistency or inconsistency of a particular state policy with the provisions of the Act should be subject to appellate review rather than to ad hoc determinations by the Commission, which already appears to be predisposed to adopting a "one size-fits-all" approach and thus looking for reasons to preempt the majority of existing and future state interconnection policies.

(e) Interexchange Services, Commercial Mobile Radio Services, and Non-Competing Neighboring LECs (paras. 158-171)

(2) Commercial Mobile Radio Services (paras. 166-169)

The Commission seeks comment on the applicability of §§ 251 and 252 to CMRS providers. The Commission also asks parties to comment on the effect of § 332(c) of OBRA on § 251's apparent inclusion of interconnection agreements between CMRS providers and wireline carriers. There appears to be no doubt that interconnection arrangements between incumbent LECs and commercial mobile radio service ("CMRS") providers fall within the scope of section 251(c)(2). We also believe that LEC-CMRS transport and termination arrangements fall within the scope of section 25 (b)(5). Moreover, we believe that all CMRS providers, including voice-grade services, such as cellular, PCS, and SMR, and non-voice-grade services, such as paging, fit this definition. By its terms §§ 251 and 252 apply to all agreements for interconnection to the networks of either a LEC or incumbent LEC. While Congress included express exemptions for CMRS in other provisions of the Act, neither § 251 or § 252 contain any express exemption for CMRS providers.

Similarly, we do not believe that § 332(c) of OBRA negates the obligation of carriers to submit all interconnection agreements between incumbent LECs and "telecommunications carriers" to the state commission for approval. If Congress had intended this result, it could easily have included an express exception for LEC-CMRS interconnection agreements in the Act and it did not. We also believe that interconnection agreements between a LEC and CMRS provider falls within the states' authority under the OBRA to regulate "other terms and conditions" of wireless services. It has always been the PaPUC's interpretation of OBRA that

the rate preemption contained therein only extended to rates charged end-users.

We do not believe it would be sound policy for the Commission to distinguish between telecommunications carriers on the basis of the technology they use. Moreover, there is no support in the Act itself for the Commission to take this position. Such an interpretation would also be entirely inconsistent with the position of the Commission in other dockets wherein it is attempting to establish regulatory parity and otherwise make its regulations technology neutral for the most part.

Finally, the Commission notes that LEC-CMRS interconnection agreements pursuant to section 332(c) are the subject of its own ongoing proceeding in CC Docket No. 95-185. We would support the Commission's incorporating by reference the comments filed in 95-185 and resolving upon that pending rulemaking in the context of this proceeding, at least to the extent § 251's application to CMRS providers is at issue.

(3) Non-Competing Neighboring LECs (paras. 170-171)

We believe that interconnection agreement between incumbent LECs and non-competing neighboring LECs are subject to section 251(c)(2). We also believe that existing arrangements between incumbent LECs and non-competing neighboring LECs would also be subject to section 252. Similar agreements involving CMRS providers would also be subject to the provision of §§ 251 and 252.

(b) Resale Services and Conditions (paras. 174-177)

The Commission's interpretation in para. 174 of the relationship of § 251(b)(1) and § 251(c)(4) is a reasonable one. That is, all LECs are prohibited from imposing unreasonable restrictions on resale, but only incumbent LECs that provide retail services to subscribers that

are not telecommunications carriers are required to make such services available at wholesale rates to requesting telecommunications carriers.

The incumbent LEC should have the burden of proving that any restriction it imposes is reasonable and nondiscriminatory. We anticipate that we will be asked to examine the impact of § 251(c)(4) upon LEC discount and promotional offerings in the context of our state proceedings and therefore decline to take a definitive position on the issue at this time. We agree that where a LEC proposes to withdraw a service, it should be required to make a showing that withdrawing the offering is in the public interest and that competitors will continue to have an alternative way of providing the service.

We also agree with the Commission's interpretation of § 251(c)(4)(B) that Congress did not intend to allow competing telecommunications carriers to purchase a service that, pursuant to state or federal policy, is offered at subsidized prices to a specified category of subscribers (e.g., residential subscribers), and then resell such service to customers that are not eligible for such subsidized service (e.g., business subscribers). We also tentatively agree that this should not prevent other carriers from purchasing high volume, low price offerings to resell to a broad pool of lower volume customers. Nonetheless, we do not support mandatory federal rules regarding application of this section. We believe that Congress intended that this provision be interpreted and enforced by state regulatory agencies.

(c) Pricing of Wholesale Services (paras. 178-188)

(1) Statutory Language (para. 178)

As stated throughout these comments, we do not agree with the Commission's interpretation that it has the authority to promulgate national standards for costing and pricing

interconnection services and unbundled network elements under the Act. This function was expressly reserved to states under § 252(d) of the Act.

(2) Discussion (paras. 179-183)

The states have specific authority under § 252(d)(3) to establish wholesale prices for telecommunications services. Section 252(d)(3) provides:

> (3) WHOLESALE PRICES FOR TELECOMMUNICATIONS SERVICES.—For the purposes of section 251(c)(4), a State commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier.

The Commission has no responsibilities under the Act to set wholesale prices for telecommunications services. Any pricing rules promulgated by the Commission should be in the form of nonbinding pricing guidelines which states can voluntarily elect to follow in lieu of developing their own wholesale pricing standards.

(3) Relationship to Other Pricing Standards (paras. 184-188)

The Commission discusses the imputation requirement of the Illinois Commerce Commission, and notes that it may be difficult to comply with an imputation rule if rates for retail services are below cost, due to implicit, non-competitively neutral, intrastate subsidy flows. See, para. 185. The Commission also notes that the New York Department of Public Service does not require an imputation rule.

We are currently addressing this issue in the context of our state proceeding, and thus cannot take a definitive position on this issue at this time. We nonetheless urge the Commission to await recommendations of the federal-state joint board on this matter. The Commission notes

in para. 188, that to the extent federal implicit universal service subsidies contribute to any problems created by adopting an imputation rule when retail rates are below cost, they will be addressed in the federal-state joint board review of universal service requirements being conducted pursuant to section 254. We do not believe that interim rules are necessary before the federal-state joint board would act on this matter.

(4) Duty to Provide Public Notice of Technical Changes. (paras. 189-194)

The Commission has designated this issue for comment by parties in phase 2 of this proceeding, which comments are due on or before May 20, 1996. The PaPUC will therefore be submitting comments on this issue in phase II of the Commission's proceeding.

C. Obligations Imposed on "Local Exchange Carriers" by Section 251(b). (paras. 195-244)

At para. 195, the Commission discusses its pending proposal to permit CMRS providers to provide fixed wireless local loop service. If the Commission determines that CMRS providers be granted flexibility to provide fixed wireless local loop service, those providers should be classified as LECs and subject to the same rate and service regulations as their wireline competitors. We don't believe that the OBRA state ratemaking exemption would apply in such instances since those providers would no longer be offering a "mobile" service per se, but a fixed service offering such as traditional wireline carriers. At a minimum, the Commission should rule that incumbent LECs and LECs now subject to the Commission's Part 69 rules should not be permitted to use fixed mobile service in conjunction with their wireline networks to avoid state rate regulation under the OBRA.

1. Resale (paras. 196-197)

We generally concur with the Commission's discussion in paras. 196-197 of the NOPR

to the extent that it advocates that few, if any, conditions or limitations should be permitted. The LEC should be required to make an affirmative showing that any restriction on resale is reasonable.

2. Number Portability (paras. 198-201)

The Commission indicates that it will take action regarding the number portability requirements of the 1996 Act within the context of its number portability proceeding at CC Docket No. 95-116. The PaPUC was an active participant in the FCC's number portability docket at 95-116 and supports the Commission's intent to resolve this issue within the context of that proceeding.

3. Dialing Parity (paras. 202-219)

The Commission has designated this issue for comment in phase II of this proceeding which comments are due May 20, 1996. The PaPUC intends to submit comments on this and other phase II issues by May 20, 1996.

4. Access to Rights-of-Way (paras. 220-225)

The Commission has designated this issue for comment in phase II of this proceeding which comments are due May 20, 1996. The PaPUC intends to submit comments on this and other phase II issues by May 20, 1996.

5. Reciprocal Compensation for Transport and Termination of Traffic (paras. 226-244)

a. Statutory Language (para. 226)

We agree with the Commission's conclusion that "[t]he statutory duty to establish reciprocal compensation arrangements for transport and termination furthers the pro-competitive goals of the 1996 Act by ensuring that all LECs receive reasonable compensation for

transporting and terminating the traffic of competing local networks with which they are interconnected." Consistent with our comments throughout, it is our interpretation that any regulations that the Commission might adopt in this regard, would be nonbinding guidelines which the states could voluntarily elect to follow in lieu of adopting their own specific requirements.

c. **Definition of Transport and Termination of Telecommunications (paras. 230-231)**

We do not believe that the term "transport and termination of telecommunications" under § 251(b)(5) is limited to certain types of traffic. The statutory provision appears to encompass all of the various types of traffic referenced in para. 230, e.g., traffic that originates on the network of one LEC and terminates on the network of a competing LEC in the same local service area, , traffic passing between LECs and CMRS providers and traffic passing between neighboring LECs that do not compete with one another.

d. **Rate Levels (paras. 232-234)**

We will be addressing this issue in the context of our pending state proceedings, and therefore, are unable to take a definitive position at this time.

e. **Symmetry (paras. 235-238)**

The Commission should allow the states to decide whether to require rate symmetry for purposes of § 252(d)(2).

f. **Bill and Keep Arrangements (paras. 239-243)**

While PaPUC rejected the bill and keep reciprocal compensation arrangement as an interim measure in compensating carriers for terminating calls on each others' networks, other states may find that circumstances within their particular jurisdiction may be conducive to such

an arrangement. As the Commission appears to recognize Section 252(d)(2)(B)(i) expressly authorizes the use of bill and keep in that it provides that what may be considered "just and reasonable" terms and conditions for reciprocal compensation "shall not be construed to preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill and keep arrangements)." The Commission should, therefore, not limit the circumstances in which states may adopt any reciprocal compensation arrangements, including bill and keep.

g. Other Possible Standards (para. 244)

The PaPUC is currently examining this issue in the context of its state proceedings. The PaPUC is currently using an interim escrow methodology pending the adoption of a permanent solution by the PaPUC later this summer.

D. Duties Imposed on "Telecommunications Carriers" by Section 251(a) (paras. 245-249)

We agree that the definition of "telecommunications carrier" generally includes local, interexchange, and international services. See, para. 246. Further, we agree that to the extent that "a carrier is engaged in providing for a fee local, interexchange, or international basic services, directly to the public or to such classes of users as to be effectively available directly to the public, that carrier falls within the definition of 'telecommunications carrier.' See para. 246. We believe that this definition would encompass LECs, C-LECs, CAPs, CMRS providers and IXCs for the most part. We do not believe that ESPs are included within the definition except to the extent they may be offering "telecommunications services."

E. Number Administration (paras. 250-259)

The Commission has asked parties to address this issue in phase II of this proceeding.

The PaPUC will be submitting comments on this issue and other phase II issues by May 20, 1996, the deadline established by the Commission.

F. Exemptions, Suspensions, and Modifications (paras. 260-261)

We agree with the Commission that the states alone have authority to make determinations under § 251(f), and that Commission standards are not necessary.

G. Continued Enforcement of Exchange Access and Interconnection Regulations (para. 262)

The PaPUC discussed the impact of this provision in section III of these comments.

H. Advanced Telecommunications Capabilities (para. 263)

The PaPUC has no comment on this issue at this time

VI. ADDITIONAL PROVISIONS OF SECTION 252

A. Arbitration Process (paras. 264-268)

We do not believe that it is critical for the Commission to develop rules governing the arbitration process at this time. Only if the Commission perceives it to be a real possibility that it will be asked in the near future to arbitrate an interconnection agreement due to a state's failure to act, should it develop rules at this time. The Commission's proposal to use "final offer" arbitration in such instances may be an expedient means for the Commission to use to resolve disputes coming to it under § 252(e)(5). Alternatively, the Commission could simply put carriers on notice that it will use the rules of the American Arbitration Association to govern any arbitration proceedings it must conduct because of a state's failure to act.

A state should not be deemed to have "failed to act to carry out its responsibility" under § 252 until the relevant statutory deadlines have expired. Automatic approvals pursuant to §

252(e)(4) should not be deemed to be a "failure to act" by the relevant state regulatory agency. Additionally, such preemption should only pertain to the particular "matter or proceeding" for which it must assume state responsibility, and in no instance can § 252(g) be construed to give the FCC continuing or ongoing jurisdiction over the same or related matters in the future.

We believe that once the Commission assumes responsibility under § 252(e)(5) and either sets prices or acts as mediator or arbitrator of an agreement, the matter should revert back to the state commission upon completion. There is no need for the Commission to continue to assume responsibility for the matter ad infinitum. § 252(e)(5) does not contemplate such continuing jurisdiction by the Commission, providing that the Commission "shall assume the responsibility of the State commission under this section with respect to the proceeding or matter and act for the State commission." Thus, once the Commission "acts" for the state commission, its jurisdiction over the matter should cease.

B. Section 252(i) (paras. 269-272)

We do not believe it is necessary for the Commission to develop standards for resolving disputes under § 252(i) in the event that it must assume the state's responsibilities pursuant to § 252(e)(5).

VII. Conclusion

In conclusion, the FCC should establish interconnection rules which recognize a range of state policies as being consistent with the 1996 Act. The FCC's rules should not attempt to usurp or preclude enforcement of state interconnection policies consistent with the Act. The FCC has no authority to dictate the specific interconnection costing or pricing methodology that a state may use except in those instances where it assumes the role of the "state" under § 252(e)(5) of the Act.

Respectfully submitted,

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